

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1460

Introduced by Assembly Member Umberg

February 22, 2005

An act to amend Section 66499.7 of the Government Code, relating to subdivided lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1460, as amended, Umberg. Subdivisions: release of security.

The Subdivision Map Act and local ordinances authorize or require, under specified circumstances, the furnishing of specified types of security with respect to the performance of various acts or agreements subject to the act. The act also requires that security given for faithful performance of any act or agreement be released upon the performance of the act or final completion and acceptance of the required work.

This bill would require that the security be released within 30 days upon the performance of the act or final completion of the required work and would ~~delete the provision that the performance or final completion be accepted as a condition to release of the security~~ *specify that upon a formal written claim of performance and completion by a subdivider or contractor, a county, city, or city and county shall have 30 days to specifically identify any incomplete performance or unsatisfactory work and the estimated costs for its satisfactory completion. If, at the end of the 30 days, the local agency has not responded to the claim, it shall be conclusively deemed that the performance of the obligation was done to its satisfaction. The bill would also provide procedures for dispute resolution about the satisfactory completion of the work.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66499.7 of the Government Code is
2 amended to read:
3 66499.7. The security furnished by the subdivider shall be
4 released in whole or in part in the following manner:
5 (a) Security given for faithful performance of any act or
6 agreement shall be released within 30 days upon the performance
7 of the act or final completion *and acceptance* of the required
8 ~~work, or the work.~~ *The* legislative body may provide for the
9 partial release of the security upon the partial performance of the
10 act or the acceptance of the work as it progresses, under rules
11 established by the legislative body. If the security furnished by
12 the subdivider is a letter of credit, the legislative body shall
13 release the letter of credit by returning the original letter of credit
14 to the issuer of the letter of credit upon performance of the act or
15 final completion and acceptance of the required work. In the
16 event that the legislative body is unable to return the original
17 letter of credit to the issuer of the letter of credit, the security
18 shall be released by written notice sent by certified mail to the
19 subdivider and issuer of the letter of credit within 30 days of the
20 acceptance of the work. The written notice shall contain a
21 statement that the work for which the security was furnished has
22 been performed or completed and accepted by the legislative
23 body, a description of the project subject to the letter of credit
24 and the notarized signature of the authorized representative of the
25 legislative body.
26 ~~(b) Security securing the payment to the contractor, his or her~~
27 ~~subcontractors and to persons furnishing labor, materials or~~
28 ~~equipment shall, after passage of the time within which claims of~~
29 ~~lien are required to be recorded pursuant to Article 3~~
30 ~~(commencing with Section 3114) of Chapter 2 of Title 15 of Part~~
31 ~~4 of Division 3 of the Civil Code and after acceptance of the~~
32 ~~work, be reduced to an amount equal to the total claimed by all~~
33 ~~claimants for whom claims of lien have been recorded and notice~~
34 ~~thereof given in writing to the legislative body, and if no claims~~
35 ~~have been recorded, the security shall be released in full.~~

1 ***(b) Upon a formal written claim of performance and***
2 ***completion by a subdivider or contractor, a county, city, or city***
3 ***and county shall have 30 days to specifically identify any***
4 ***incomplete performance or unsatisfactory work and the***
5 ***estimated costs for its satisfactory completion. If there is a***
6 ***dispute regarding the satisfactory performance of the act or final***
7 ***completion and acceptance of the required work, the county, city,***
8 ***or city and county shall identify the specific unacceptable***
9 ***performance or incomplete work, estimate the actual costs for***
10 ***satisfactory completion of that work and shall release all other***
11 ***security. If at the end of the 30-day period a local agency does***
12 ***not respond to the claim, it shall be conclusively deemed that the***
13 ***performance of the obligation was done to its satisfaction. If a***
14 ***local agency and a subdivider or contractor cannot resolve their***
15 ***differences, they shall seek resolution through alternative dispute***
16 ***resolution. In no case shall a local agency fail to release security***
17 ***upon completion and acceptance of the required work beyond 90***
18 ***days.***

19 The release shall not apply to any required guarantee and
20 warranty period required by Section 66499.9 for the guarantee or
21 warranty nor to the amount of the security deemed necessary by
22 the local agency for the guarantee and warranty period nor to
23 costs and reasonable expenses and fees, including reasonable
24 attorneys' fees.

25 The legislative body may authorize any of its public officers or
26 employees to authorize release or reduction of the security in
27 accordance with the conditions hereinabove set forth and in
28 accordance with any rules that it may prescribe.

29 ***(c) Security securing the payment to the contractor, his or her***
30 ***subcontractors, and to persons furnishing labor, materials, or***
31 ***equipment shall, after passage of the time within which claims of***
32 ***lien are required to be recorded pursuant to Article 3***
33 ***(commencing with Section 3114) of Chapter 2 of Title 15 of Part***
34 ***4 of Division 3 of the Civil Code and after acceptance of the***
35 ***work, be reduced to an amount equal to the total claimed by all***
36 ***claimants for whom claims of lien have been recorded and notice***
37 ***thereof given in writing to the legislative body. If no such claims***
38 ***have been recorded, the security shall be released in full.***

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